

STATE OF WYOMING
DEPARTMENT OF ENVIRONMENTAL QUALITY
LAND QUALITY DIVISION
HERSCHLER BUILDING, 122 W. 25TH ST
CHEYENNE, WY 82002
TELEPHONE: (307) 777-7756
COAL OPERATION

N.O.V. No. 100189
Permit No. 214-T6
Docket No. 4072-07

NOTICE OF VIOLATION (NOTICE)

To the Following Permittee or Operator or Licensee:

Name: Foundation Coal West, Inc.

Mine: Belle Ayr Mine County: Campbell Telephone: (307) 687-3410

Surface: X Underground: _____ Other: _____

Mailing Address: P.O Box 3039

Gillette, WY 82717-3039

Dates of Inspection: May 15, 2007 and May 16, 2007

Time of Inspection: from 08:00 am to 12:45 pm on May 15, 2007
and from 08:30 am to 11:30 pm on May 16, 2007

Name of Operator (if other than permittee): _____

Mailing Address: _____

Under the authority of the Wyoming Environmental Quality Act of 1973 (Act), as amended, the undersigned designated representative of the Director of the Wyoming Department of Environmental Quality (DEQ) has conducted an inspection of the above mine on the above date and has found violation(s) of the Act., the regulations or required permit condition(s) *listed in the attachment(s)*. This Notice constitutes a separate Notice of Violation for each violation listed.

You must abate each of these violations within the designated abatement time. You are responsible for doing all work in a safe and workmanlike manner.

The undersigned designated representative finds that cessation of mining is not expressly or in practical effect required by this Notice. For this purpose "mining" means extracting coal from the earth or a waste pile and transporting it within or from the permit area.

This Notice shall remain in effect until it expires as provided on the attached Page 2 or is modified, terminated, or vacated by written notice of a designated representative or the Wyoming Environmental Quality Council. The time for abatement may be extended by a designated representative for up to 90 days from issuance of the notice, if the failure to meet the time previously set was not caused by lack of diligence on the part of the Permittee or Operator or Licensee.

DATE OF SERVICE: JUNE 4, 2007

Kurt King
SIGNATURE OF DESIGNATED REPRESENTATIVE

MANNER OF SERVICE: CERTIFIED MAIL

KURT KING
PRINTED NAME

PROOF OF SERVICE: RETURN RECEIPT

PERSON SERVED WITH NOTICE: LAUREL VICKLUND

CC: CHEYENNE LQD
DISTRICT OFFICE
OSM - CASPER FIELD OFFICE

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IMPORTANT – PLEASE READ CAREFULLY

1. FORMAL REVIEW AND TEMPORARY RELIEF You must apply for review of this Notice by submitting an application for review, within 30 days of this Notice by you or your agent, to:

Mr. John V. Corra, Director
Department of Environmental Quality
Herschler Building
122 W.25th St.
Cheyenne, WY 82002

If you apply for a formal public hearing, you may request temporary relief from this Notice. Your request must be filed at the above address prior to a decision in the hearing. The procedures for obtaining a formal public hearing or temporary relief are contained in W.S. § 35-11-437 (c) (ii) and (e), Land Quality Division (LQD) Coal Rules & Regulations (R&R) Chapter 16, Section 2(m) and DEQ Rules of Practice and Procedures Chapters 1 and 2.

2. EXPEDITED REVIEW If this Notice requires cessation of mining, expressly or in practical effect, as found on page 1, then the procedures of W.S. § 35-11-437 (d) apply. This provision affords an opportunity for an expedited hearing, upon request, if this Notice is affirmed by the director. Please review this finding and inform the designated representative if you agree with it.
3. PENALTIES You may submit information in writing pertaining to the violation(s) covered by this Notice within 15 days of the date it is served on you or your agent. This information will be considered in determining the facts surrounding the violation and the amount of penalty.

For each violation covered by this Notice, a penalty of up to \$5,000.00 may be assessed for each day during which that violation continues.

If you fail to abate any of the violations within the time set for abatement or for meeting any interim step, you must be assessed a minimum penalty of \$750.00 or more for each day during which the violation continues beyond the time set for abatement, and you must be issued a cessation order requiring you to cease surface coal mining operations on the portion relevant to the violation(s).

4. EFFECT ON THE PERMIT In addition, if it is determined that a pattern of violations of any requirement(s) of the Act, the regulations, or permit conditions exists, and that the violations were caused by unwarranted failure to comply or were willful, the permit may be suspended or revoked.

FOR FURTHER INFORMATION, PLEASE CONSULT: W.S. § 35-11-409(c), W.S. § 35-11-437, LQD Coal R&R Chapter 16, Sections 2 and 3 and DEQ Rules of Practice and Procedures Chapters 1 and 2.

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Nature of the Violation

1. Drainage containing muck and waste material from the Coal Haul Road overflowed the south Coal Haul Road drainage ditch onto topsoil in reclamation.

Provision(s) of the LOD Coal R&R, Act, or Permit Violated

Wyoming Department of Environmental Quality, Land Quality Coal Rules and Regulations, Chapter 4, Section 2 (c)(i)(A) states "*All topsoil or approved surface material shall be removed from all areas to be affected in the permit area prior to these areas being affected unless otherwise authorized by the Administrator. The topsoil may be mixed with the subsoil but shall be segregated so as not to become mixed with spoil or waste material, stockpiled in the most advantageous manner and saved for reclamation purposes.*"

Portion of the Operation to which Notice Applies

Topsoil in reclamation south of the Coal Haul Road drainage ditch in the S1/2 Section 27 T.48N. R.71W., S1/2 Section 28 T.48N. R.71W., N1/2 Section 33 T.48N. R.71W., and N1/2 Section 34 T.48N. R.71W.

Remedial Action Required (including interim steps, if any)

Foundation Coal West Inc., Belle Ayr Mine shall submit in writing a schedule to complete clean-up and remedial measures. The clean-up and remedial measures should include:

1. Clean out the drainage ditch and place the material in backfill;
2. Clean out the culvert to restore its function and conduct periodic checks of the culvert to ensure proper function; and
3. Strip topsoil on the reclamation to increase the buffer zone between the south Coal Haul Road drainage ditch and reclamation, increase the size of the ditch, and better define the topsoil / reclamation edge.

Time for Abatement (including time for interim steps, if any)

The schedule for the above clean-up and remedial actions must be submitted within 10 days of receiving this Notice of Violation.

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